

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 14366US02

In the Application of:

Ronald L. Mahany and
Stephen J. Kelly

U.S. Serial No.: 10/646,318

Filed: August 22, 2003

For: HAND-HELD DATA CAPTURE
SYSTEM WITH
INTERCHANGEABLE MODULES

Examiner: Tremblay, Mark Stephen

Group Art Unit: 2876

Confirmation No.: 9697

Express Mail No. EV 218986964 US

Dated: April 25, 2005

Declaration of Ronald H. Spuhler

I, Ronald H. Spuhler, declare the following:

1. I am an attorney of record in this application. I have been directly involved in preparing and prosecuting the present patent application. I am making this declaration to show facts in support of a petition, under 37 CFR 1.47(a), requesting the Director to accept the enclosed Second Supplemental Combined Declaration and Power of Attorney, which has been executed on behalf of Keith Cargin, who has refused to execute any declaration.

2. The present application names two joint inventors – Ronald Mahany and Stephen Kelly. Inventors Mahany (by and through his widow) and Kelly have executed the enclosed Second Supplemental Combined Declaration and Power of Attorney.

3. A Notice of Informal Application was sent to McAndrews, Held & Malloy, Ltd. on April 20, 2004, stating that a new oath or declaration was required due to the original declaration's failure to identify the citizenship of each inventor.

4. Upon receiving the Notice of Informal Application, my colleague, Ronald Larson, and I contacted Jack Sherman, Intermec's in-house counsel, who filed all of the prior related applications and was intimately involved in the prosecution of each of these cases. Mr. Sherman informed us of his belief that Mr. Cargin should be a named inventor in this case.

5. In July 2004, Mr. Larson and I also contacted several of the twelve inventors listed on the original declaration of the grandparent application to determine their roles, if any, in the conception and reduction to practice of the current invention. These inventors also confirmed Mr. Cargin's role in inventing the claimed subject matter.

6. Mr. Larson and I attempted to contact Mr. Cargin, at home and at work, on no fewer than three occasions, leaving a message each time. Mr. Cargin did not respond to any of our messages.

7. On October 20, 2004, the undersigned sent an e-mail to Mr. Cargin reiterating that the original declaration was rejected for failure to include citizenship and that if he was in fact an inventor, Mr. Cargin needed to sign the Supplemental Declaration that was attached. A paper copy of this e-mail is attached as Exhibit A. Mr. Cargin did not respond to this e-mail.

8. On October 25, 2004, the undersigned sent an e-mail to Mr. Cargin noting that no response had been received and again asking Mr. Cargin to

contact the undersigned. A paper copy of this e-mail is attached as Exhibit B.

Mr. Cargin did not sign the Declaration or contact the undersigned.

9. On February 24, 2005, the undersigned sent to Mr. Cargin, via certified mail, a copy of the relevant application papers, the Second Supplemental Combined Declaration and Power of Attorney and a letter requesting that Mr. Cargin contact the undersigned to discuss Mr. Cargin's involvement in inventing the claimed subject matter. Several days later the certified mailing containing the listed materials was returned to sender.

10. Another one of my colleagues, Laura Personick, contacted directory assistance and ran several internet searches, which confirmed that Mr. Cargin still resides on Blue Ridge Lane in Cedar Rapids, Iowa.

11. On March 29, 2005, the undersigned re-sent the relevant application papers to Mr. Cargin at his listed work address, via certified mail. Also included was a new cover letter, requesting that Mr. Cargin contact the undersigned to confirm Mr. Cargin's home address.

12. In the beginning of April, 2005, the undersigned received confirmation of delivery of the March 29, 2005 mailing. The return receipt was signed by L.S. Haas, a Rockwell Collins mailroom employee. The listed delivery date was March 31, 2005.

13. Upon information and belief, Ms. Personick left several messages with Mr. Cargin at his office attempting to confirm Mr. Cargin's receipt of the March 29, 2005 mailing and attempting to discuss Mr. Cargin's involvement in

inventing the claimed subject matter. Mr. Cargin did not return any of Ms. Personick's phone calls.

14. Upon information and belief, Ms. Personick spoke with several employees at Rockwell Collins, Mr. Cargin's listed place of business, and confirmed that Mr. Cargin was still employed with the company.

15. Upon information and belief, on April 14, 2005, Ms. Personick spoke with several employees of the Rockwell Collins mail department and ascertained that the March 29, 2005 mailing to Mr. Cargin was received by the mail department and internally sent to Mr. Cargin's mail station on March 31, 2005.

16. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further assert that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date April 25, 2005


Ronald H. Spuhler
Ronald H. Spuhler
Reg. No. 52,245
Attorney for Applicant

McAndrews, Held & Malloy, Ltd.
500 West Madison Street
Chicago, Illinois 60661
Telephone: (312) 775-8000

Exhibit A

-----Original Message-----

From: Hank (Ronald) Spuhler
Sent: Wednesday, October 20, 2004 12:02 PM
To: 'kkcargin@rockwellcollins.com'
Subject: RE: Intermec

Keith

I haven't been able to reach you thus far by telephone, so thought I would try by e-mail. Attached is a Supplemental Declaration for your execution (as mentioned in my voicemails, the original declaration was rejected by the Patent Office because it did not include your citizenship). Please fill out the relevant sections on page 5 and either fax (312/775-8100) or e-mail it back to me. This is an extremely urgent matter, so I would appreciate it greatly if you could handle this issue as soon as possible.

Please feel free to call me with any questions and thanks in advance for your help.

Hank



14366US02 Supp
Declaration.doc...

Exhibit B

-----Original Message-----

From: Hank (Ronald) Spuhler
Sent: Monday, October 25, 2004 2:35 PM
To: 'kkcargin@rockwellcollins.com'
Subject: RE: Intermec

Keith

Still have not heard back from you. Could you please give me a call at your earliest convenience so that we can discuss your contribution, if any, to this case. Thanks much.

Hank

-----Original Message-----

From: Hank (Ronald) Spuhler
Sent: Wednesday, October 20, 2004 12:02 PM
To: 'kkcargin@rockwellcollins.com'
Subject: RE: Intermec

Keith

I haven't been able to reach you thus far by telephone, so thought I would try by e-mail. Attached is a Supplemental Declaration for your execution (as mentioned in my voicemails, the original declaration was rejected by the Patent Office because it did not include your citizenship). Please fill out the relevant sections on page 5 and either fax (312/775-8100) or e-mail it back to me. This is an extremely urgent matter, so I would appreciate it greatly if you could handle this issue as soon as possible.

Please feel free to call me with any questions and thanks in advance for your help.

Hank

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